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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

ANDREA RESNICK, GARY BUNKER, JOHN HALEY, AMY LATHAM, ERIC ROSLANSKY and KEVIN SIMPSON, on behalf of themselves and all others similarly situated, Plaintiffs, v. WALMART.COM USA LLC, WAL-MART STORES, INC., and NETFLIX, INC., Defendants.	Case No. C 09-0002 PJH ADMINISTRATIVE MOTION TO CONSIDER WHETHER CASE NO. C 09-0402 JL SHOULD BE RELATED PURSUANT TO CIVIL L. R. 3-12

Dockets.Justia.com

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that, pursuant to Local Rule 3-12, Plaintiff Margarita Lacabe submits this administrative motion for the Court to consider whether *Lacabe v. Walmart.com USA LLC, et al.*, Case No. 09-CV-0402, should be related to *Resnick v. Walmart.com USA LLC, et al.*, Case No. 09-CV-0002, and other cases that have previously been related to *Resnick.*

The *Lacabe* and the *Resnick* actions allege that the same Defendants violated federal antitrust law by illegally allocating and monopolizing markets for DVD sales and rentals. Plaintiffs in the *Lacabe* and *Resnick* actions all raise claims for violations of the Sherman Act, 15 U.S.C. §§ 1 and 2. The other cases that have previously been related to *Resnick*, according to the Docket in Case No. 09-CV-0002, are:

Related Cases	**Filed**
3:09-cv-0096-PJH O'Connor v. Walmart.com USA LLC et al.	01/15/2009
3:09-cv-0111-PJH Endzweig v. Walmart.com USA LLC et al.	01/20/2009
3:09-cv-0116-PJH Schmitz v. Walmart.com USA LLC et al.	01/20/2009
3:09-cv-0138-PJH Lynch et al. v. Walmart.com USA LLC et al.	01/20/2009
3:09-cv-0139-PJH Groce et al. v. Netflix, Inc. et al.	01/20/2009
3:09-cv-0156-PJH Sivek v. Walmart.com USA LLC et al.	01/27/2009
3:09-cv-0180-PJH Faris v. Netflix, Inc. et al.	01/27/2009
3:09-cv-0225-PJH Slobodin v. Netflix, Inc. et al.	01/29/2009
3:09-cv-0236-PJH Anthony et al. v. Walmart.com USA LLC et al.	01/27/2009
3:09-cv-0244-PJH Polk-Stamps v. Netflix, Inc. et al.	01/29/2009
3:09-cv-0274-PJH Sheeler v. Walmart.com USA LLC et al.	02/03/2009
3:09-cv-0294-PJH Chapman v. Netflix, Inc. et al.	01/29/2009
3:09-cv-0297-PJH Orozco v. Netflix, Inc. et al.	01/29/2009
3:09-cv-0340-PJH Landels et al. v. Netflix, Inc. et al.	02/03/2009
3:09-cv-0349-PJH Grime v. Netflix, Inc. et al.	02/03/2009
3:09-cv-0361-PJH Meyer v. Walmart.com USA LLC et al.	02/03/2009
3:09-cv-0368-PJH Randall v. Walmart.com USA LLC et al.	02/03/2009
3:09-cv-0375-PJH Hirsch v. Netflix, Inc. et al.	02/03/2009
3:09-cv-0377-PJH Miscioscia v. Netflix, Inc. et al.	02/03/2009
3:09-cv-0391-PJH Chatelain v. Netflix, Inc. et al.	02/03/2009

It appears likely that there will be an unduly burdensome duplication of labor and expense or the possibility of conflicting results if the cases are conducted before different Judges. Relating the cases will help eliminate duplicative discovery, prevent inconsistent pretrial rulings, and conserve the resources of the parties, their counsel, and the judiciary. All cases pending in this District are at a preliminary stage. Assignment to a single judge would not prejudice any other parties.

Lacabe v. Walmart.com USA LLC, *et al.* satisfies the criteria of Rule 3-12. Therefore, Plaintiff Margarita Lacabe respectfully requests that *Lacabe* be related to *Resnick* and be assigned to the Honorable Phyllis J. Hamilton, the Judge assigned to the low-numbered case pending in this District, *Resnick.*

Dated: February 4, 2009 LIEFF CABRASER HEIMANN & BERNSTEIN, LLP

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